

UNITED STATES DISTRICT COURT
for the
Middle District of North Carolina

United States of America

v.

Trevis Daquan Orr Herring

) Case No.

1:22MJ

488

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of October 25, 2022 in the county of Forsyth in the
Middle District of North Carolina, the defendant(s) violated:

<i>Code Section</i>	<i>Offense Description</i>
18 U.S.C. § 922(g)(1)	Felon in Possession of a Firearm

This criminal complaint is based on these facts:

See Affidavit

Continued on the attached sheet.

On this day, the applicant appeared before me via reliable electronic means, that is by telephone, was placed under oath, and attested to the contents of this Criminal Complaint and attached affidavit in accordance with the requirements of Fed. R. Crim. P. 4.1.

Date:

12/09/22

City and state:

Greensboro, North Carolina

/S/ RUSSELL JOHNSON

Complainant's signature

Russell Johnson, Special Agent, ATF

Printed name and title



Judge's signature

L. Patrick Auld, U.S. Magistrate Judge

Printed name and title

AFFIDAVIT IN SUPPORT OF
CRIMINAL COMPLAINT AND ARREST WARRANT

I, Russell Johnson, a Task Force Officer with the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) being duly sworn according to law, depose and state as follows:

AFFIANT'S EXPERIENCE

1. I am an investigative or law enforcement officer of the United States, within the meaning of Title 18, United States Code, Section 2510(7) and am empowered by law to conduct investigations of and to make arrests for offenses enumerated in Title 18, United States Code, Section 2516.

2. As a law enforcement officer, I have used and/or participated in a variety of methods investigating firearms and narcotics related crimes, including, but not limited to, visual surveillance, witness interviews, the use of search warrants, confidential informants, undercover agents, pen registers/trap and trace devices, and mobile tracking devices. Based upon information gained through this investigation and others pertaining to firearm trafficking activities of the participant in this investigation, I am familiar with the ways firearm traffickers conduct their business. My familiarity includes the various means and methods by which firearm traffickers acquire and distribute their firearms, their use of cellular telephones, and their use of vehicles in furtherance of firearms trafficking and money transactions.

3. As a result of my training and experience, I am familiar with the Federal Criminal Codes and know that it is a violation of:

4. ***Title 18, United States Code, Section 922(g)(1)***, for any person who has been convicted in any court of a crime punishable by a term of imprisonment exceeding one year, to possess any firearm in or affecting interstate commerce, or to receive any firearm which has been shipped or transported in interstate or foreign commerce.

PURPOSE OF AFFIDAVIT

5. This affidavit is made in support of an application for a criminal complaint for Trevis Daquan Orr Herring (hereinafter "Herring").

6. I have probable cause to believe that Herring did Possess a Firearm while being a Convicted Felon, in violation of 18 U.S.C. § 922(g)(1).

THE INVESTIGATION – FACTUAL BACKGROUND

7. Because this affidavit is being submitted for the limited purpose of establishing probable cause for a criminal complaint, I have not included each and every fact known to me concerning this investigation. I have set forth facts that I believe are necessary to establish probable cause of violation of federal criminal offense, specifically 18 U.S.C. § 922(g)(1).

PROBABLE CAUSE

8. In October, ATF Confidential Informant¹ (hereinafter, CI) was communicating with an unindicted party about obtaining firearms. The unindicted party advised they had located some firearms that were for sale. The unindicted party then provided the CI's phone number to Orr Herring (later identified). On October 20, 2022, the CI received a text message from Herring using phone number "XXX-XXX-9139." Herring began talking about the sale of firearms with the CI. During the conversation Herring and the CI agreed to meet one another for the sale of the firearm.

8. A query of the phone number "XXX-XXX-9139" was conducted by law enforcement through a police database, which resulted in law enforcement finding the phone number to being associated to Herring.

9. On October 24, 2022, an ATF Special Agent, acting in an undercover capacity (hereinafter, UC) and the CI were instructed by Herring to respond to 2022 South Broad Street, Winston-Salem, NC (J and J Food Mart) to purchase a firearm.

9. At approximately 2:49 p.m., the UC and CI pulled onto the parking lot of the J and J Mart and observed a black Honda Accord backed into a

¹ The CI was compensated by ATF for his/her services and has a history of criminal convictions including at least one felony conviction.

parking spot in front of the store. The UC parked the UC vehicle on the passenger side of the Honda Accord.

10. The UC and CI contacted an unknown black male in the front passenger seat of the Honda Accord and unknown black male in the driver's seat of the Accord. The UC and CI exchanged greetings with the occupants through the open front passenger side window of the UC vehicle. The CI proceeded to exit the UC vehicle and entered the rear passenger side seat to wait for Herring who was inside of J and J Food Mart at the time. Shortly thereafter, Herring exited J and J Food Mart.

11. Herring directed the front passenger seat passenger to exit the Honda Accord, to which he did. Herring then entered the front passenger seat of the Accord with his legs still outside of the vehicle and facing the UC vehicle. Herring appeared to remove a Smith & Wesson, Model M&P 40 Shield bearing serial #HSW0694 from the front pocket of his hooded sweatshirt. He then cleared the firearm of a single .40 caliber round of ammunition that was chambered in the firearm. After clearing the firearm and removing the loaded magazine, Herring handed the firearm to the CI who was still seated in the rear passenger side seat.

12. The CI Provided Orr Herring with \$540.00 and Herring handed the CI the magazine loaded with 7 rounds of .40 caliber ammunition and the single round of .40 caliber ammunition that was ejected from the chamber.

After completing the controlled purchase, the CI returned the UC vehicle and the UC and CI departed from the area. The CI then handed the firearm and ammunition to the UC. This transaction was audio/video recorded and the funds utilized were prerecorded.

13. Both the UC and the CI positively identified Herring from his North Carolina driver's license photo and several other images of Herring.

14. On October 24, 2022, Special Agent Paul Johnson examined the listed firearm(s) and its markings required under 27 CFR 478.92, which include but are not limited to the serial number, name of manufacturer, model, caliber or gauge, and also, when applicable, the importer and proof marks. The firearm is described as follows:

- a. Smith & Wesson pistol, model M&P .40 Shield, .40 S&W caliber, bearing Serial Number HSW0694.

15. Based upon the above descriptions, as well as researching firearm periodicals, books, other known media, and the internal ATF database that is kept up to date on manufacturers of both firearms and ammunition, and in conjunction with the knowledge and experience of Special Agent Paul Johnson, it is his opinion that:

- a. Smith & Wesson pistol, model M&P .40 Shield, .40 S&W caliber, bearing Serial Number HSW0694 was manufactured in Connecticut or Maine.

16. On October 25, 2022, an ATF UC and ATF CI were instructed by Herring to go to 110 Weatherwood Court in Winston-Salem, North Carolina to purchase a firearm.

17. At approximately 12:24 pm, the UC and CI responded to 110 Weatherwood Court in Winston-Salem, North Carolina and parked in front of apartment building “110”.

18. At approximately 12:34 pm, Herring appeared from open area between building 110 and 106 carrying a tan gun bag and walked to the UC vehicle. Herring entered the rear passenger seat of the UC vehicle and exchanged greetings with the UC and the CI.

19. Herring unzipped the tan gun bag exposing a Palmetto State Armory, Model Dagger Compact 9-millimeter pistol bearing serial # JJE37096 and a box of ammunition containing thirty-nine (39) rounds of .40 caliber ammunition. He then cleared the firearm of a single 9-millimeter round of ammunition that was chambered in the firearm and removed the magazine that was loaded with an additional fifteen (15) rounds of 9-millimeter ammunition. Orr Herring then handed the firearm to the UC to inspect. The UC agreed to purchase the firearm and handed Herring \$600. He then received the gun bag along with the ammunition.

20. Herring provided the UC and CI with a box of .40 caliber ammunition. During this transaction, the UC asked Herring if he had ever

fired this Palmetto pistol. Herring stated he had fired the firearm. The UC asked Herring if he had additional Palmetto firearms for sale and he replied, "I come up on a lot... I get a lot of stuff out the stores like I don't try to touch street guns." After completing the controlled purchase, Herring exited the UC vehicle. This transaction was audio/video recorded and the funds utilized were prerecorded.

21. On October 25, 2022, Special Agent Paul Johnson examined the listed firearm(s) and its markings required under 27 CFR 478.92, which include but are not limited to the serial number, name of manufacturer, model, caliber or gauge, and also, when applicable, the importer and proof marks. The firearm is described as follows:

- a. Palmetto State Armory pistol, model Palmetto Dagger Compact, 9mm caliber, bearing Serial Number JJE37096.

22. Based upon the above descriptions, as well as researching firearm periodicals, books, other known media, and the internal ATF database that is kept up to date on manufacturers of both firearms and ammunition, and in conjunction with the knowledge and experience of Special Agent Paul Johnson, it is his opinion that:

- a. Palmetto State Armory pistol, model Palmetto Dagger Compact, 9mm caliber, bearing Serial Number JJE37096 was manufactured in Connecticut.

23. A Criminal History check of Herring was conducted and revealed Herring is currently on probation with NCDPS for Possession of a Firearm by a Convicted Felon. For Orr Herring's conviction for Possession of Firearm by Felon, for which was prosecuted in the Forsyth County, North Carolina Superior Court, on July 7, 2021, and he received a sentence of 11-23 months. Therefore, Herring would have had knowledge that he had been convicted of an offense for which the punishment exceeded 12 months.

24. On November 3, 2022, law enforcement contacted the North Carolina Governor's Clemency Office in reference to Herring's pardon status. It was confirmed that Orr Herring has not received nor applied for a pardon.

CONCLUSION

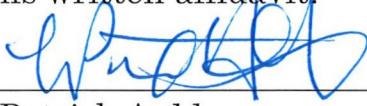
25. Based on the foregoing facts and circumstances, I respectfully submit that there is probable cause to believe that on October 25, 2022, within the Middle District of North Carolina, Trevis Daquan Orr Herring committed

the following criminal offenses: Possession of a Firearm by a Convicted Felon, in violation of 18 U.S.C. § 922(g)(1).

/S/ RUSSELL JOHNSON
Russell Johnson, Special Agent
Bureau of Alcohol, Tobacco,
Firearms and Explosives

Dated: December 9, 2022

Pursuant to Rule 4.1 of the Federal Rules of Criminal Procedure, the affiant appeared before me via reliable electronic means (telephone), was placed under oath, and attested to the contents of this written affidavit.


L. Patrick Auld
United States Magistrate Judge
Middle District of North Carolina